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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/583,864

07/03/2008

Elke Zakel

73478

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23872 7590 09/20/2010  
MCGLEW & TUTTLE, PC  
P.O. BOX 9227  
SCARBOROUGH STATION  
SCARBOROUGH, NY 10510-9227

EXAMINER

PERKEY, WILLIAM B

ART UNIT

PAPER NUMBER

2862

MAIL DATE

DELIVERY MODE

09/20/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/583,864	ZAKEL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	W.B. Perkey	2862	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 5-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 10-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2010 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/03/08, 12/01/09, 07/07/10</u> .                            | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of Species II as illustrated in Fig. 3 in the reply filed on September 9, 2010 is acknowledged. Claims 5-9 are withdrawn from consideration, as drawn to the non-elected species.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Freeman (US 5,060,063).

Freeman shows an optical system as the video probe illustrated in Fig. 9 for observing multiple objects 102 and 104. A camera unit is shown as element 112. A first prism unit is shown as element 118, situated on the optical axis of the camera unit 112 and producing two output partial beam paths. Two object prism units are shown as elements 124 and 126. Thus claim 1 is fully met by Freeman.

Concerning claim 2, illumination units 134 and 132 are assigned to each of the two object prisms 124 and 126. Thus, claim 2 is fully met by Freeman.

Concerning claim 10, the output beam paths of object prism units 124 and 126 run transversely to the optical axis of the camera unit 112, and said output beam paths are in opposite directions with respect to each other. Thus, claim 10 is fully met by Freeman.

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Concerning claim 11, the output beam paths at exit of the fiber optics 128 and 130 run parallel to the optical axis of the camera unit 112. Thus, claim 11 is fully met by Freeman.

Concerning claim 12, the first prism unit 118 clearly functions as set forth in applicant's claim.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman (US 5,060,063).

Claim 3 specifies that the illumination units are semiconductor components, and claim 4 further specifies the illumination units are light emitting diodes. Freeman does not disclose the nature of the light emitting source which is transmitted by the fiber optics 128 and 130. Semiconductor light emitting diodes were widely conventional at the time of applicant's invention for illuminating objects. It would have been within the purview of the ordinary workman in the art to use conventional semiconductor light emitting diodes for generating the illumination of the video probe in Fig. 9 of Freeman in order to obtain low power, high efficiency illumination.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William B. Perkey whose telephone number is (571) 272-2126. The examiner can normally be reached on Monday-Friday 9:15am-5:45pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Clayton E. LaBalle can be reached at 571-272-1594. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Any response to this office action should be faxed to (571) 273-8300 or mailed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Hand - delivered responses should be brought to:

Customer Service Window  
Randolph Building  
401 Dulany Street

/William B. Perkey/  
Primary Examiner  
Art Unit 2862